

the Secretary, upon request of the Department of Hawaiian Home Lands may waive the size requirements under this paragraph; and

“(vi) conform with the energy performance requirements for new construction established by the Secretary under section 526(a) of the National Housing Act (12 U.S.C.A. 1735f-4), unless the Secretary determines that the requirements are not applicable.

“(1) APPLICABILITY OF CIVIL RIGHTS STATUTES.—To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title VIII of the Act popularly known as the ‘Civil Rights Act of 1968’ (42 U.S.C.A. 3601 et seq.) apply to a guarantee provided under this subsection, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of the guarantee to an eligible entity on the basis that the entity serves Native Hawaiian families or is a Native Hawaiian family.”.

AMERICAN INDIAN EDUCATION FOUNDATION ACT OF 1999

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 334, S. 1290.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1290) to amend title 36 of the United States Code to establish the American Indian Education Foundation, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2513) was agreed to.

The bill (S. 1290) was read the third time and passed, as follows:

S. 1290

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “American Indian Education Foundation Act of 1999”.

SEC. 2. AMERICAN INDIAN EDUCATION FOUNDATION.

(a) IN GENERAL.—Part B of subtitle II of title 36, United States Code, is amended by inserting after chapter 215 the following:

“CHAPTER 216. AMERICAN INDIAN EDUCATION FOUNDATION

“Sec.

“21601. Organization.

“21602. Purposes.

“21603. Governing body.

“21604. Powers.

“21605. Principal office.

“21606. Service of process.

“21607. Liability of officers and agents.

“21608. Restrictions.

“21609. Transfer of donated funds.

“§ 21601. Organization

“(a) FEDERAL CHARTER.—The American Indian Education Foundation (referred to in

this chapter as the ‘foundation’) is a federally chartered corporation.

“(b) PERPETUAL EXISTENCE.—Except as otherwise provided, the foundation has perpetual existence.

“(c) NATURE OF CORPORATION.—The foundation is a charitable and nonprofit corporation and is not an agency or instrumentality of the United States.

“(d) PLACE OF INCORPORATION AND DOMICILE.—The foundation is declared to be incorporated and domiciled in the District of Columbia.

“(e) DEFINITIONS.—In this chapter:

“(1) AMERICAN INDIAN.—The term ‘American Indian’ has the meaning given the term ‘Indian’ in section 4(d) of the Indian Self-Determination and Assistance Act (25 U.S.C. 450b(d)).

“(2) BUREAU FUNDED SCHOOL.—The term ‘Bureau funded school’ has the meaning given that term in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026).

“§ 21602. Purposes

“The purposes of the foundation are—

“(1) to encourage, accept, and administer private gifts of real and personal property or any income therefrom or other interest therein for the benefit of, or in support of, the mission of the Office of Indian Education Programs of the Bureau of Indian Affairs (or its successor office);

“(2) to undertake and conduct such other activities as will further the educational opportunities of American Indians who attend a Bureau funded school; and

“(3) to participate with, and otherwise assist, Federal, State, and tribal governments, agencies, entities, and individuals in undertaking and conducting activities that will further the educational opportunities of American Indians attending Bureau funded schools.

“§ 21603. Governing body

“(a) BOARD OF DIRECTORS.—

“(1) IN GENERAL.—The board of directors (referred to in this chapter as the ‘board’) is the governing body of the foundation. The board may exercise, or provide for the exercise of, the powers of the foundation.

“(2) COMPOSITION OF BOARD.—Subject to section 3 of the American Indian Education Foundation Act of 1999—

“(A) the number of members of the board, the manner of selection of those members, the filling of vacancies for the board, and terms of office of the members of the board shall be as provided in the constitution and bylaws of the foundation; except that

“(B) the board shall have at least 11 members, 2 of whom shall be the Secretary of the Interior and the Assistant Secretary of the Interior for Indian Affairs, who shall serve as ex officio nonvoting members.

“(3) CITIZENSHIP OF MEMBERS.—The members of the board shall be United States citizens who are knowledgeable or experienced in American Indian education and shall, to the extent practicable, represent diverse points of view relating to the education of American Indians.

“(b) OFFICERS.—

“(1) IN GENERAL.—The officers of the foundation shall be a secretary elected from among the members of the board and any other officers provided for in the constitution and bylaws of the foundation.

“(2) QUALIFICATIONS AND DUTIES OF SECRETARY.—The secretary shall—

“(A) serve, at the direction of the board, as its chief operating officer; and

“(B) be knowledgeable and experienced in matters relating to education in general and education of American Indians in particular.

“(3) ELECTION, TERMS, AND DUTIES OF MEMBERS.—The manner of election, term of office, and duties of the officers shall be as provided in the constitution and bylaws of the foundation.

“(c) COMPENSATION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), no compensation shall be paid to a member of the board by reason of service as a member.

“(2) TRAVEL EXPENSES.—A member of the board shall be reimbursed for actual and necessary travel and subsistence expenses incurred by that member in the performance of the duties of the foundation.

“§ 21604. Powers

“The foundation—

“(1) shall adopt a constitution and bylaws for the management of its property and the regulation of its affairs, which may be amended;

“(2) shall adopt and alter a corporate seal;

“(3) may make contracts, subject to the limitations of this chapter;

“(4) may acquire (through a gift or otherwise), own, lease, encumber, and transfer real or personal property as necessary or convenient to carry out the purposes of the foundation;

“(5) may sue and be sued; and

“(6) may carry out any other act necessary and proper to carry out the purposes of the foundation.

“§ 21605. Principal office

“The principal office of the foundation shall be in the District of Columbia. The activities of the foundation may be conducted, and offices may be maintained, throughout the United States in accordance with the constitution and bylaws of the foundation.

“§ 21606. Service of process

“The foundation shall comply with the law on service of process of each State in which it is incorporated and of each State in which the foundation carries on activities.

“§ 21607. Liability of officers and agents

“The foundation shall be liable for the acts of its officers and agents acting within the scope of their authority. Members of the board shall be personally liable only for gross negligence in the performance of their duties.

“§ 21608. Restrictions

“(a) LIMITATION ON SPENDING.—Beginning with the fiscal year following the first full fiscal year during which the foundation is in operation, the administrative costs of the foundation may not exceed 10 percent of the sum of—

“(1) the amounts transferred to the foundation under section 21609 during the preceding fiscal year; and

“(2) donations received from private sources during the preceding fiscal year.

“(b) APPOINTMENT AND HIRING.—The appointment of officers and employees of the foundation shall be subject to the availability of funds.

“(c) STATUS.—The members of the board, and the officers, employees, and agents of the foundation shall not, by reason of their association with the foundation, be considered to be officers, employees, or agents of the United States.

“§ 21609. Transfer of donated funds

“The Secretary of the Interior may transfer to the foundation funds held by the Department of the Interior under the Act of February 14, 1931 (46 Stat. 1106, chapter 171; 25 U.S.C. 451), if the transfer or use of such funds is not prohibited by any term under which the funds were donated.”.

(b) CLERICAL AMENDMENT.—The table of chapters for part B of subtitle II of title 36, United States Code, is amended by inserting after the item relating to chapter 215 the following:

**"216. American Indian Education
Foundation 21601".**

SEC. 3. INITIAL PERIOD AFTER ESTABLISHMENT.

(a) BOARD OF DIRECTORS.—

(1) INITIAL BOARD.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Interior shall appoint the initial voting members of the board of directors under section 21603 of title 36, United States Code (referred to in this section as the "board"). The initial members of the board shall have staggered terms (as determined by the Secretary of the Interior).

(2) SUCCESSIONAL BOARDS.—The composition of all successive boards after the initial board shall be in conformity with the constitution and bylaws of the American Indian Education Foundation organized under chapter 216 of title 36, United States Code (referred to in this section as the "foundation").

(b) ADMINISTRATIVE SERVICES AND SUPPORT.—

(1) PROVISION OF SUPPORT BY SECRETARY.—Subject to paragraph (2), during the 5-year period beginning on the date of enactment of this Act, the Secretary of the Interior—

(A) may provide personnel, facilities, and other administrative support services to the foundation;

(B) may provide funds to reimburse the travel expenses of the members of the board under section 21603(c)(2) of title 36, United States Code; and

(C) shall require and accept reimbursements from the foundation for any—

(i) services provided under subparagraph (A); and

(ii) funds provided under subparagraph (B).

(2) REIMBURSEMENT.—Reimbursements accepted under paragraph (1)(C) shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing services described in paragraph (1)(A) and the travel expenses described in paragraph (1)(B).

(3) CONTINUATION OF CERTAIN SERVICES.—Notwithstanding any other provision of this section, the Secretary of the Interior may continue to provide facilities and necessary support services to the foundation after the termination of the 5-year period specified in paragraph (1), on a space available, reimbursable cost basis.

**CHIPPEWA CREE TRIBE OF THE
ROCKY BOY'S RESERVATION IN-
DIAN RESERVED WATER RIGHTS
SETTLEMENT ACT OF 1999**

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 297, S. 438.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 438) to provide for the settlement of the water rights claims for the Chippewa Cree Tribe of the Rocky Boy's Reservation, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2512

(Purpose: To provide a complete substitute)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. BURNS, for himself and Mr. BAUCUS, proposes an amendment numbered 2512.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BURNS. Mr. President, I am pleased to urge passage of S. 438, The Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement Act of 1999, introduced by myself and Senator BAUCUS of Montana. S. 438 is the ratification of an agreement among the United States, the State of Montana and the Chippewa Cree Tribe settling the water rights of the Tribe in Montana. This represents a fair and equitable settlement that will enhance the ability of the Tribe to develop a sustainable economy while protecting existing investments in water use by off-Reservation ranchers who rely on water for their livelihoods.

The Settlement was negotiated with extensive involvement by the Tribe and its members, the State of Montana, the Administration, and the water users who own private land on streams shared with the Reservation. It has the support of all those affected and received the overwhelming support of the Montana Legislature when presented for ratification in 1997.

It is a tribute to the Governor of Montana, Marc Racicot, represented by the Reserved Water Rights Compact Commission; the chairman of the Tribe, Bert Corcoran and the Tribe Negotiating Team; David Hayes, Acting Deputy Secretary of the Interior, the Federal negotiating team; and the water users on Big Sandy and Beaver Creeks in the Milk River valley of Montana, that this Compact represents a truly local solution that takes into account the needs and sovereign rights of each party.

In addition to ratifying the Settlement, the bill provides the necessary authorization for funding to develop the water resources on the Reservation and to assure a safe drinking water supply for the Tribe. For several years we have worked closely with the Senate Indian Affairs and Energy Committees to fashion a bill that is consistent with federal policy toward Indian tribes. Thanks to the substantial efforts of the Committees, I believe we have accomplished that goal.

This is the first Indian water right settlement to come before Congress in

many years. In approving the Chippewa Cree Settlement Act, we have the opportunity to send the message to western States that we endorse negotiation as the preferred method of Indian water right quantification, and that we will defer to States and Tribes to fashion their own approach to the allocation of water.

In closing, I believe that the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement Act is an historic agreement. This is truly a local solution that takes into account the needs and sovereign rights of each party. Just as the mentioned parties have worked closely together to get us to the submission of this bill today, I want to thank all members of Congress with whom I worked closely to ensure passage of this important bill.

Mr. BAUCUS. Mr. President, I am so pleased that the Senate will pass the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement. The legislation ratifies the Compact approved by the State and the Tribe in 1997. I was proud to sponsor this legislation in the 105th with Senator BURNS as a co-sponsor, and had the 2nd Session of that Congress lasted a few more weeks, I believe the bill would have been approved by the Senate. Once again this year, Senator BURNS and I jointly introduced this legislation. The passage of this bill is the culmination of 16 years of extensive technical studies and six years of rather intensive negotiations in our state involving the Chippewa Cree Tribe, the Montana State government, off-Reservation county and municipal governments in north-central Montana, local ranchers, and the United States Departments of Justice and Interior.

The 122,000-acre Rocky Boy's Reservation sits west of Havre, Montana on several tributaries of the Milk River on what was formerly the Fort Assiniboine Military Reserve. Unfortunately, the portion of the land reserved for the Chippewa Cree is rough and arid. Without irrigation, much of the land is not suitable for farming. Recent studies have demonstrated that the Reservation could not sustain the membership of the Chippewa Cree Tribe as a permanent homeland without an infusion of additional water. The development of a viable reservation economy calls for more water for drinking purposes, as well as for agriculture and other municipal uses. In 1982, acting in its fiduciary capacity as trustee for the Tribe, the United States filed a claim for the water rights of the Chippewa Cree in the State of Montana general stream adjudication. Were it not for the negotiated settlement represented by this legislation, divisive and costly litigation would be pending between the State, the Tribe, the United States and non-Indian ranchers for many years to